

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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TAYLOR M.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY AND E.M.-C.,  
*Appellees.*

No. 2 CA-JV 2018-0142  
Filed November 15, 2018

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);  
Ariz. R. P. Juv. Ct. 103(G).

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Appeal from the Superior Court in Pima County  
No. JD20160884  
The Honorable Joan Wagener, Judge

**AFFIRMED**

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COUNSEL

Scott W. Schlievert, Tucson  
*Counsel for Appellant*

Mark Brnovich, Arizona Attorney General  
By Cathleen E. Fuller, Assistant Attorney General, Tucson  
*Counsel for Appellee Department of Child Safety*

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## MEMORANDUM DECISION

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Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Eckerstrom concurred.

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B R E A R C L I F F E, Judge:

¶1 Taylor M., the mother of E.M.-C., born in March 2016, appeals from the juvenile court's June 2018 order terminating her parental rights on the grounds of neglect, chronic substance abuse and time-in-care pursuant to A.R.S. § 8-533(B)(2), (3) and (8)(a). We affirm.

¶2 A juvenile court may terminate a parent's rights if it finds clear and convincing evidence of at least one statutory ground for severance and finds by a preponderance of the evidence that termination is in the children's best interests. A.R.S. §§ 8-533(B), 8-537(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41 (2005). "Because the juvenile court is in the best position to weigh evidence and assess witness credibility, we accept the juvenile court's findings of fact if reasonable evidence and inferences support them, and will affirm a severance order unless it is clearly erroneous." *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, ¶ 9 (2016). We view the evidence in the light most favorable to upholding the juvenile court's order. *See Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, ¶ 2 (App. 2008).

¶3 The Department of Child Safety (DCS) removed E.M.-C. from Taylor's care in December 2016, after a domestic violence incident between Taylor and the maternal grandmother leading to Taylor's arrest, and based on Taylor's inability to care for E.M.-C. due to her substance abuse. In February 2017, Taylor entered a plea of no contest to the amended allegations in the dependency petition, and the juvenile court found E.M.-C. dependent as to her. DCS provided services to Taylor, which included drug testing, substance abuse treatment, individual therapy, parenting classes, parent-child-relationship therapy, healthy-relationship classes, and domestic-violence classes. Although Taylor participated in some of the required services, she failed to complete others and was ultimately closed out of some, and she tested positive for cocaine in October, November and December 2017. Taylor became "fully involved in her services" in January 2018, more than one year after E.M.-C. had been removed from her care.

¶4 In January 2018, the juvenile court changed the case plan to severance and adoption, and DCS filed a motion to terminate Taylor's parental rights on neglect and substance abuse grounds and because E.M.-C. had been in court-ordered, out-of-home care for more than nine months. After a contested hearing that spanned four days between March and May 2018, the court terminated Taylor's parental rights to E.M.-C. in a thorough, thirteen-page, under-advisement ruling. The court reviewed the history of the case, described the services DCS had provided, and summarized the evidence presented at the severance hearing. It then entered factual findings related to each of the statutory grounds and E.M.-C.'s best interests, concluding DCS had sustained its burden on all of the grounds alleged. This appeal followed.

¶5 On appeal, Taylor generally claims that there is insufficient evidence to terminate her rights under any of the grounds relied upon by the juvenile court. And, as to the time-in-care ground, she asserts she "at one time or another was engaged in all services," and argues she did not substantially neglect or wilfully refuse to remedy the circumstances that caused E.M.-C. to be in an out-of-home placement. See A.R.S. § 8-533(B)(8)(a). Taylor further suggests any failure to participate in required services was DCS's fault.

¶6 To the extent Taylor contends she was in compliance with her case plan during the months just before the severance hearing, the juvenile court clearly considered this factor. The court found "it laudable that [Taylor] has begun the process to address the risk factors preventing her from appropriately and safely parenting [E.M.-C.] and encourage[d] her to continue to participate in these services," but nonetheless found her "efforts to be too little too late." Furthermore, Taylor's arguments on this point, including her references to conflicting evidence, her assertion that the state's witnesses were "discredited" by other testimony, and her claim that she "was clearly intending to commit to the case plan," amount to a request for this court to reweigh the evidence relating to her failure to remedy the circumstances that caused E.M.-C. to be in care. This court will not reweigh the evidence on review. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 12 (App. 2002).

¶7 Moreover, the record contains substantial evidence that Taylor did not consistently engage in services after E.M.-C. was removed from her care. Cf. *In re Maricopa Cty. Juv. Action No. JS-501568*, 177 Ariz. 571, 576 (App. 1994) (court "is well within its discretion in finding substantial neglect and terminating parental rights on that basis" when parent "makes only sporadic, aborted attempts to remedy" circumstances causing out-of-

home placement). Here, the juvenile court correctly found that although DCS had provided Taylor with appropriate reunification services, she had not consistently participated in or completed them, including failing to partake in required drug testing during the month prior to the conclusion of the termination hearing.

¶8 Additionally, Taylor testified that although she had been “motivated” to participate in services “a little bit at the beginning” of the dependency, she had hoped she would be “lucky” and would regain custody of E.M.-C. without having to participate in services. On the last day of the severance hearing, Taylor testified she had not contacted her case manager to participate in drug tests during the previous month because she “want[ed] to keep [her] distance from [the case manager].” However, she also testified she understood that drug testing was important because DCS wanted her to show she is “sober enough” for E.M.-C. to come home. *See Marina P. v. Ariz. Dep’t of Econ. Sec.*, 214 Ariz. 326, ¶ 20 (App. 2007) (nine-month time-in-care ground focuses on level of parent’s effort to cure circumstances causing court-ordered care rather than parent’s success in doing so).

¶9 Taylor also maintains the time-in-care ground is “artificial and solely in the control of [DCS] who had discretion” to increase her visitation with E.M.-C. during the dependency. To the extent we understand her argument, it appears Taylor is attempting to challenge the juvenile court’s rulings related to E.M.-C.’s placement during the dependency. We cannot address any arguments related to the dependency proceeding or adjudication in this appeal from the June 2018 termination order. *See Lee v. Lee*, 133 Ariz. 118, 124 (App. 1982) (appellate court only has jurisdiction to review matters contained in notice of appeal). Moreover, Taylor did not file a direct appeal in the dependency matter, the manner by which she could have directly challenged issues related to the dependency adjudication. *Rita J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 512, ¶ 4 (App. 2000) (dependency adjudication order is final, appealable order).

¶10 We have reviewed the juvenile court’s detailed ruling and have determined its findings and conclusions regarding the out-of-home placement ground are amply supported by the record and the law. *Jesus M.*, 203 Ariz. 278, ¶ 16 (citing *State v. Whipple*, 177 Ariz. 272, 274 (App. 1993)). Accordingly, we adopt that portion of the court’s ruling. *See id.*

¶11 Because the record supports termination on the ground of time-in-care pursuant to § 8-533(B)(8)(a), we need not address Taylor’s other arguments related to the alternative grounds of neglect and chronic

substance abuse under § 8-533(B)(2), (3). *See Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, ¶ 27 (2000) (appellate court need not address other statutory grounds for terminating parent's rights if there is sufficient evidence on one ground). Finally, although Taylor lists as an issue in her opening brief the juvenile court's finding that termination was in E.M.-C.'s best interests, she does not address the court's finding in her brief. Accordingly, she has waived this argument on appeal and we do not address it further. *See Christina G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 231, n.6 (App. 2011) (failure to develop argument on appeal results in abandonment and waiver of issue).

¶12 Accordingly, we affirm the juvenile court's order terminating Taylor's parental rights to E.M.-C.